THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12292 of 2005

Dated: 26-07-2007

Between:

Ratnam Bhaskar and others.

..... PETITIONERS

AND

The Mandal Revenue Officer, Bhoopalpalli, Warangal, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12292 of 2005

ORDER:

The fifteen petitioners filed instant writ petition seeking a writ of Mandamus declaring the action of the respondents, namely, the Mandal Revenue Officer(MRO), Bhoopalpalli, the Revenue Divisional Officer(RDO), Mulug, the District Collector, Warangal, and the Project Officer, Singareni Collieries Company Limited (SCCL), Bhoopalpalli, in interfering with their (petitioners) possession in respect of the land/plots assigned to them for the purpose of houses as illegal and arbitrary.

The affidavit in support of the writ petition is filed by first petitioner. It is alleged that all the petitioners are eking out their livelihood as coolies. They do not have houses of their own. They applied to the respondents in 1998 for house sites in said Village. First respondent identified Government land to an extent of Acs.9.28 guntas in survey No.456, got a layout approved and allegedly granted house site pattas to 316 beneficiaries. By proceedings in RC.No.B/3194/98 dated 30.03.1999, each of the petitioners was assigned land to an extent of 100 sq. yards where they allegedly constructed houses and are staying there. It is further alleged that on 05.12.2004, first respondent addressed a letter to SCCL directing to fence the land to an extent of Acs.18.00 in said survey number duly authorizing it to take possession of said land. On 07.01.2005, the petitioners made a representation to third respondent contending that they were assigned land to an extent of Acs.9.26 guntas and requested to issue directions to first respondent to protect their land since they constructed houses. First respondent also submitted a report to third respondent on 09.02.2005 seeking necessary orders. In spite of the same, attempts were made to interfere with the possession of the petitioners.

This Court, while admitting the writ petition on 13.06.2005, passed interim orders in W.P.M.P.No.15640 of 2005 directing the respondents not to dispossess the petitioners. Respondents 1 to 3 have now moved this Court by filing W.V.M.P.No.220 of 2006 for vacating the interim orders. SCCL also moved a similar application, being W.V.M.P.No.2188 of 2005. Along with the vacate petitions, counter-affidavits are filed. In these counter-affidavits, the allegation that the respondents tried to interfere with the house sites assigned to the petitioners in March, 1999 is denied. It is further alleged that the land to an extent of Acs.18.00 was granted to SCCL for mining lease and that the petitioners tried to

encroach upon said land and therefore, first respondent and SCCL prevented the petitioners from encroaching upon said land which was not assigned to them.

In the counter-affidavit filed by first respondent, it is averred as under.

> ……But on the pretext of assignment of above said land, the beneficiaries herein, are taking advantage and encroaching upon the balance vacant Government land in Sy.No.456 for which the Mandal Revenue Officer staff and S.C.C.L., officials have stopped the attempts made by the petitioners herein for encroaching the land by way of making illegal constructions on it as the said piece of balance land is covered by lease proposals by S.C.C.Ltd, vide Lr.No.EO/GDK/300/403 dated: 24.7.1990..…
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> ……it is true that out of the total Government land Ac.18.00 in Sy.No.456 of Bhupalpalli Village and Mandal, an extent of Ac.9.28 guntas was made assignment to 316 land less poor persons for house site purpose in the year 1999 duly demarcating the land on the field and making lay out. But the petitioners herein have attempted for illegal occupation of balance vacant Government land in the said Sy.No. under the guise of land assigned to them which is highly objectionable. The respondents 1 to 3 are not interfering with the petitioners plots which are assigned to them. But the Mandal Revenue Officer is having power to remove any encroachment on the vacant Government land, apart from the assigned land.

In the counter-affidavit filed by SCCL, similar averments are made asserting that the petitioners tried to encroach upon the land granted as mining lease to SCCL and therefore, first respondent took necessary steps. The allegation that first respondent tried to move the petitioners from their houses in the land which was assigned to them is denied. Though two vacate petitions are moved a year ago, the petitioners have not filed any reply-affidavit denying the counter averments. Therefore, it stands proved that even though there is no proper cause of action for filing the writ petition, the petitioners approached this Court in haste without verifying the correct ground position. Frivolous and vexatious allegations are made by the petitioners against the respondent officials, which are now denied in the counter-affidavits, in particular the allegation that the respondents tried to dispossess the petitioners. The petitioners have no cause of action to file the writ petition.

The writ petition, with the above observations, is accordingly dismissed with exemplary costs of Rs.5,000/-(Rupees five thousand only).

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(**V.V.S.RAO, J**)

26th July, 2007
ghn